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Date                    October 29, 2004

To                    Ex. Shun K. Lee  
                          Group Art Unit: 2878

Of                    U.S. Patent and Trademark Office

Fax                    703 872-9306

From                  Jason C. Beckstead, Reg. No. 48,232

Subject                Appeal Brief and Submission of Appeal Brief

Our Ref              Q63766                    Your Ref              USSN 09/931,064

Pages                 23 pages  
(including cover sheet)

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In re application of                            Docket No: Q63766

Satoshi ARAKAWA

Appl. No.: 09/931,064                            Group Art Unit: 2878

Confirmation No.: 2592                            Examiner: Shun K. LEE

Filed: August 17, 2001

For: IMAGE INFORMATION READING APPARATUS

Papers Entitled:

Appeal Brief	20 pages
SUBMISSION OF APPEAL BRIEF(in duplicate)	2 pages

**PATENT APPLICATION  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q63766

Satoshi ARAKAWA, et al.

Appln. No.: 09/931,064

Group Art Unit: 2878

Confirmation No.: 2592

Examiner: Shun K. LEE

Filed: August 17, 2001

For: IMAGE INFORMATION READING APPARATUS

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

**MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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**I. REAL PARTY IN INTEREST**

Based on information known to Appellant and to the best of Appellant's legal representatives' knowledge the real party in interest is Fuji Photo Film Company Ltd.. The Assignment was recorded with the U.S.P.T.O. on August 17, 2001, at Reel 12101, Frame 0304.

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**II. RELATED APPEALS AND INTERFERENCES**

Appellant and Appellant's assignees and legal representatives are unaware of any Appeal or Interferences which will be directly affected by, or which will directly affect, or have a bearing, on the Board's decision in the pending Appeal.

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### **III. STATUS OF CLAIMS**

Claims 1 – 13 and 15 - 20 are pending in the application and have been finally rejected under 35 U.S.C. § 103 in view of a combination of U.S.P. Nos. 6,365,909 to Hayakawa and 4,810,874 to Torii, respectively. Claims 1 – 13 and 15 - 20 are thus the subject of this Appeal, and, as finally rejected, are set forth in the attached Appendix.

Claims 1 – 4, 7 – 11 and 17 – 18 are rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Hayakawa (U.S.P. No. 6,365,909) in view of Torii (U.S.P. No. 4,810,874).

Claims 5 – 6, 15 – 16 and 20 are rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Hayakawa in view of Torii and further in view of Schneider (U.S.P. No. 4,965,455).

Claims 12 – 13 and 19 are rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Hayakawa in view of Torii and further in view of Watanabe (U.S.P. No. 4,733,307).

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**IV. STATUS OF AMENDMENTS**

Original claims 1 - 11 were rejected in an Office Action dated October 8, 2003.

Appellant filed an Amendment under 37 C.F.R. § 1.111 on January 7, 2004, which argued in favor of original claims 1 - 11 and added new claims 12 - 20. In an Office Action dated May 3, 2004, the Examiner finally rejected claims 1 - 22. On August 3, 2004, Appellant filed an Amendment under 37 C.F.R. § 1.116, in which claim 14 was cancelled. The Examiner subsequently issued an Advisory Action dated August 19, 2004 which stated that the August 3<sup>rd</sup> Amendment will be entered for purposes of Appeal, but that the claims are not in condition for allowance. The Advisory Action of August 19, 2004, reaffirmed the final rejection of claims 1 - 13 and 15 - 20, from which Appellant appeals.

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**V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

As described beginning at page 6 of Appellant's specification:

As shown in Figs. 1 and 2, an image information reading apparatus 10 [is provided, comprising] . . . a lifting and lowering mechanism 12, a support table 14 which can be lifted and lowered by the lifting and lowering mechanism 12, a light collecting device 16, a laser beam applying device 18 (see Fig. 2) as a stimulating light applying means to which the light collecting device 16 is coupled, and a displacing mechanism 20 (see Fig. 1) for displacing the laser beam applying device 18. The lifting and lowering mechanism 12, the support table 14, the light collecting device 16, the laser beam applying device 18, and the displacing mechanism 20 are housed in an apparatus housing 22. The apparatus housing 22 has an opening 24 defined in a side all thereof with a shutter 26 disposed therein. The shutter 26 can be moved vertically by a shutter opening and closing mechanism, not shown, for opening or closing the opening 24.

The above discussion describes an overall inter-relationship of features of an exemplary embodiment of the claimed invention. Illustrative structure corresponding to the displaceable light applying means for applying stimulating light to the phosphor sheet is discussed at page 10 of Appellant's specification, for instance, at approximately lines 1 – 20, and is shown by a laser beam applying device 18, a laser beam source 72, a lens system 73, a laser beam reflecting mirror 74, a box or housing 76, and an aperture 78. Illustrative structure corresponding to the

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displaceable light collecting means for collecting light is discussed at page 9 of Appellant's specification, for instance, at approximately lines 3 – 27, and is shown in Figs. 1 and 2 as light collecting device 16, comprising a light guide 64, a photomultiplier 66, a stimulating light separation filter 70, and a reflecting mirror 68. Additional features of Appellant's claimed subject matter are described at pages 6 – 18 and illustrated in Figs. 1 – 5.

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**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The rejections to be reviewed comprise the rejection of claims 1 – 4, 7 – 11, 17 and 18 under 35 U.S.C. § 103 in view of a combination of U.S.P. Nos. 6,365,909 to Hayakawa and 4,810,874 to Torii, respectively; the rejection of claims 5 – 6, 15 – 16 and 20 under 35 U.S.C. § 103 in view of Hayakawa, Torii, and further in view of Schneider (U.S.P. No. 4,965,455); and the rejection of claims 12 – 13 and 19 under 35 U.S.C. § 103 in view of Hayakawa, Torii, and further in view of Watanabe (U.S.P. No. 4,733,307).

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## **VII. ARGUMENTS**

Claims 1 – 4, 7 – 11, 17 and 18 are rejected by the Examiner under 35 U.S.C. § 103 in view of a combination of U.S.P. Nos. 6,365,909 to Hayakawa and 4,810,874 to Torii, respectively. For the reasons explained below this rejection should be overturned.

### **The Cited Art Fails to Teach or Suggest All of the Features of Appellant's Claims**

Independent claim 1 of Appellant's invention includes the recitation of:

... *a support table* for placing thereon *a container which houses a stimulable phosphor sheet* with radiation image information recorded therein, with a lid openably and closably mounted on the container;

*displaceable* stimulating light applying means for applying stimulating light to the stimulable phosphor sheet which is exposed when said lid is opened; *displaceable* light collecting means for collecting light which is emitted from said stimulable phosphor sheet upon exposure to said stimulating light; and a photoelectric transducer mechanism for converting the collected light to an electric signal;

the arrangement being such that *while said stimulating light applying means is facing and being displaced with respect to said stimulable phosphor sheet housed in said container*, said stimulating light applying means applies said stimulating light to said stimulable phosphor sheet, *and while said light collecting means is being displaced with respect to said stimulable phosphor sheet*, said light collecting means collects light emitted from said stimulable phosphor sheet and reads radiation image information from the collected light.

(Emphasis added.)

Features of Appellant's independent claim 1 therefore include *a support table*, *displaceable light applying means*, and *displaceable light collecting means*, wherein a stimulable phosphor sheet is stimulated and resulting emitted light collected *while the phosphor sheet is in a container*. Both the light applying means and the light collecting means are *displaceable*, and the

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light applying means and the light collecting means displace with respect to the stimulable phosphor sheet housed in the container.

Because the previous features are absent from the art cited by the Examiner (as explained below), the instant rejection should be overturned. *See MPEP § 2143.03 ("[t]o establish prima facie obviousness, all claim limitations must be taught or suggested")*.

The Examiner compares Hayakawa's plate holding section 4 (shown, for example, in Hayakawa's Figs. 1 and 25) to Appellant's support table 14 which holds the container which houses the phosphor sheet while the light applying and collecting means displace with respect to the stimulable phosphor sheet housed in the container (as claimed by Appellant's claim 1). In contrast to Appellant's invention, however, the device of Hayakawa removes the phosphor sheet from its container while applying stimulating light and collecting emitted light (Hayakawa's light applying and collecting means are shown by reference element 5, for instance, in Figs. 1 and 25). In brief, the Hayakawa reference fails to teach or suggest *a support table which holds the container housing the phosphor sheet while the light applying and collecting means displace with respect to the stimulable phosphor sheet housed in the container*. That is, Hayakawa fails to teach or suggest "...the arrangement being such that while said stimulating light applying means is facing and being displaced with respect to said stimulable phosphor sheet housed in said container, said stimulating light applying means applies said stimulating light to said stimulable phosphor sheet, and while said light collecting means is being displaced with respect to said stimulable phosphor sheet, said light collecting means collects light emitted from said stimulable phosphor sheet and reads radiation image information from the collected light."

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The Torii reference fails to cure the deficiencies of Hayakawa. That is, the Torii reference fails to teach or suggest a support table, *let alone a support table for holding a container with a phosphor sheet inside while light applying and collecting means displace with respect to the stimulable phosphor sheet housed in the container*. Instead, Torii teaches a conveyor belt 30 which moves a phosphor sheet 3 beneath light applying 13 and collecting means 12/16. In Torii, the phosphor sheet 3 displaces about the light applying and collecting means.

Clearly, a conveyor belt is not the same thing as a table. Additionally, in further contrast to the Torii device, Appellant's invention does not move its container housing with a phosphor sheet inside the container, but instead displaces the light applying and collecting means with respect to the stimulable phosphor sheet housed in the container.

In view of the previous, the art cited by the Examiner fails to teach or suggest all of the features recited by Appellant's independent claim 1, as is required by MPEP § 2143.03. Accordingly, the instant rejection should be overturned.

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**Omission of Elements with Retention of Function is an Indicia of Unobviousness**

The instant rejection should also be overturned because Appellant's invention does away with Hayakawa's complex phosphor sheet handling system 4 which removes phosphor sheets from their containers, while retaining the function of stimulating and reading from a phosphor sheet. *See MPEP § 2144.04(II)(B).* Additionally, the instant invention does away with Torii's conveyor belt system 30, while retaining the function of stimulating and reading from a phosphor sheet. For these additional reasons the Examiner's rejection should be overturned.

**Appellant's Dependent Claims**

Claims 5, 6, 15, 16 and 20 are rejected under 35 U.S.C. § 103 in view of Hayakawa, Torii and U.S.P. No. 4, 810,847 to Schneider. Additionally, claims 12, 13 and 19 are rejected under 35 U.S.C. § 103 in view of Hayakawa, Torii and U.S.P. No. 4,733,307 to Watanabe. Notably, neither of the Schneider and Watanabe references cure the above-noted deficiencies of the Hayakawa and Torii references, and all of the dependent claims (claims 2 – 13 and 15 – 20) are therefore asserted as patentable at least by virtue of their ultimate dependency upon claim 1.

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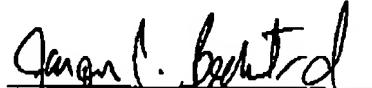
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**CONCLUSION**

Unless a check is submitted herewith for the fee required under 37 C.F.R. §41.37(a) and 1.17(c), please charge said fee to Deposit Account No. 19-4880.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Jason C. Beckstead  
Registration No. 48,232

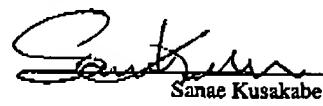
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Sanae Kusakabe

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## **CLAIMS APPENDIX**

### **CLAIMS 1 – 13 and 15 – 20 ON APPEAL:**

1. (Original) An image information reading apparatus comprising:

a support table for placing thereon a container which houses a stimulable phosphor sheet with radiation image information recorded therein, with a lid openably and closably mounted on the container;

displaceable stimulating light applying means for applying stimulating light to the stimulable phosphor sheet which is exposed when said lid is opened;

displaceable light collecting means for collecting light which is emitted from said stimulable phosphor sheet upon exposure to said stimulating light; and

a photoelectric transducer mechanism for converting the collected light to an electric signal;

the arrangement being such that while said stimulating light applying means is facing and being displaced with respect to said stimulable phosphor sheet housed in said container, said stimulating light applying means applies said stimulating light to said stimulable phosphor sheet, and while said light collecting means is being displaced with respect to said stimulable phosphor sheet, said light collecting means collects light emitted from said stimulable phosphor sheet and reads radiation image information from the collected light.

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2. (Original) An image information reading apparatus according to claim 1, wherein said stimulating light applying means and said light collecting means are coupled to each other for displacement in unison with each other.

3. (Original) An image information reading apparatus according to claim 2, further comprising:

a displacing mechanism for displacing said stimulating light applying means and said light collecting means, said displacing mechanism comprising a ball screw operatively connected to said stimulating light applying means and said light collecting means and a motor for rotating said ball screw about its own axis.

4. (Original) An image information reading apparatus according to claim 1, further comprising:

a lifting and lowering mechanism for lifting and lowering said support table.

5. (Original) An image information reading apparatus according to claim 4, wherein said lifting and lowering mechanism comprises a plurality of support shafts rotatably mounted on a base and operatively connected to said support table and a plurality of motors for rotating said support shafts respectively about their own axes to lift and lower said support table.

6. (Original) An image information reading apparatus according to claim 5, wherein said motors have respective rotatable shafts with respective worms fitted thereover, said support shafts supporting respective worm gears fitted thereover and held in mesh with said respective

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worms, whereby said support shafts can be rotated about their own axes by said worms and said worm gears when said motors are energized.

7. (Original) An image information reading apparatus according to claim 4, wherein said stimulating light applying means and said light collecting means are coupled to each other for displacement in unison with each other.

8. (Original) An image information reading apparatus according to claim 7, further comprising:

a displacing mechanism for displacing said stimulating light applying means and said light collecting means, said displacing mechanism comprising a ball screw operatively connected to said stimulating light applying means and said light collecting means and a motor for rotating said ball screw about its own axis.

9. (Original) An image information reading apparatus according to claim 1, wherein said container comprises a container casing with said lid being openably and closably mounted thereon, said lid being removably mounted on said container casing.

10. (Original) An image information reading apparatus according to claim 9, wherein said container casing has a groove defined therein, said lid having a side edge slidably fitted in said groove.

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11. (Original) An image information reading apparatus according to claim 10, wherein said lid has a tab projecting from a side edge thereof.

12. (Previously Presented) The image information reading apparatus of claim 1, further wherein the light collecting means and the stimulating light applying means are separately displaceable.

13. (Previously Presented) The image information reading apparatus of claim 12, further wherein the light collecting means and the stimulating light applying means are displaceable by separate displacement mechanisms, wherein each said separate displacement mechanism comprises a motor that is energizable in synchronism with each motor of other said separate displacement mechanisms.

14. (Cancelled).

15. (Previously Presented) The image information reading apparatus of claim 4, further wherein the lifting and lowering mechanism for lifting and lowering said support table includes motors that are simultaneously energized for lifting and lowering said support table.

16. (Previously Presented) The image information reading apparatus of claim 15, wherein said motors comprise worms, worm gears and rotatable shafts.

17. (Previously Presented) The image information reading apparatus of claim 1, further wherein said support table functions in a substantially horizontal manner.

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18. (Previously Presented) The image information reading apparatus of claim 4, further wherein said support table functions in a substantially horizontal manner.

19. (Previously Presented) The image information reading apparatus of claim 12, further wherein said support table functions in a substantially horizontal manner.

20. (Previously Presented) The image information reading apparatus of claim 15, further wherein said support table functions in a substantially horizontal manner.

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### **EVIDENCE APPENDIX**

The evidence of the instant case is reflected by the record, including the Office Action of May 3, 2004; the Amendment filed August 3, 2004; and the Advisory Action dated August 19, 2004.

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**RELATED PROCEEDINGS APPENDIX**

Appellant and Appellant's assignees and legal representatives are unaware of any Appeal or Interference which will be directly affected by, or which will directly affect, or have a bearing, on the Board's decision in the pending Appeal.

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Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Submitted herewith please find an Appeal Brief. Please charge the statutory fee of \$330.00 to Deposit Account No. 19-4880. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

Respectfully submitted,



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Sanae Kusakabe

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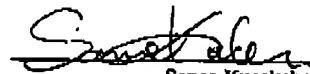
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Sanae Kusakabe

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